

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6861 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to
see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

Whether this case involves a substantial question
4 of law as to the interpretation of the constitution
of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NUTHERM PVT.LTD. - Petitioner(s)

Versus

BABUBHAI K MISTRY - Respondent(s)

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Appearance :

MR KV GADHIA for Petitioner No(s).: 1.

MR GC RAY for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 13/07/2005

ORAL JUDGMENT

1. This petition is directed against the judgment and award dated 21st November, 1997, passed by the Labour Court, Vadodara in Reference [L.C.V.] No.502 of 1982 whereby the Labour Court has directed the petitioner Company to

reinstate the respondent workman on his original post with continuity in service along with 25% back wages.

2. The short facts of the case are that the respondent workman was working as a Drilling Machine Operator with the petitioner Company. The petitioner Company issued charge sheet on the grounds of negligence in work and taking leave without any permission while on duty. Pursuant to the said charges, departmental inquiry was held against the respondent workman. Since the charges levelled against the respondent workman were proved, he was dismissed from the service w.e.f. 14th May, 1982.

2.1. Being aggrieved by the said order, the respondent workman raised an industrial dispute before the Labour Court, Vadodara for adjudication. The Labour Court while considering the case on merits, passed the impugned award. Hence, this petition.

3. I have heard the learned counsel for the parties and have perused the materials placed on record. While admitting this petition, this Court has passed the following order :-

"Heard the learned advocates for the respective parties. RULE. It is not disputed that pending Reference, the respondent workman reached the age of superannuation in the year 1990. There shall be ad-interim relief in terms of

para 9 (b), on condition that the petitioner shall, within a period of six weeks from today, pay a sum of Rs.20,000=00 [Rs. Twenty Thousand only] to the respondent workman towards the back wages awarded to the respondent workman."

3.1. As stated by the learned advocate for the petitioner Company that pursuant to the said order, an amount of Rs.20,000=00 [Rs. Twenty Thousand only] has been paid to the respondent workman. Even otherwise, during the pendency of Reference, since the respondent workman has reached the age of superannuation, the question of reinstatement in service shall not arise. Hence, the question which is now required to be considered by this Court is with regard to back wages.

3.2. While admitting this matter since this Court has directed the petitioner Company to pay to the respondent workman a sum of Rs.20,000=00 towards back wages, I am of the opinion, that ends of justice would be served if the said amount is treated as full and final settlement of the impugned award of the Labour Court, towards back wages.

4. In above view of the matter, the amount of Rs.20,000=00[Rs. Twenty Thousand only] paid by the petitioner Company to the respondent workman while admitting the matter, is directed to be treated as full and final settlement of the impugned award of the Labour Court

towards back wages. The petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

/phalguni/